

1 COMPLAINT BY A PRISONER UNDER THE CIVIL RIGHTS ACT, 42 U.S.C. § 1983

2 Name: Querol Rommel

3 (Last)

(First)

(Middle Initial)

4 Prisoner Number: AT-7315

5 Institutional Address: Pelican Bay State Prison, B-Yard/5-Blk/111-Cell,
6 P.O. Box 7500, Crescent City, California 95532

7 **FILED**

8 Mar 22 2022

9 Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
EUREKA

10 Querol Rommel

11 (Enter your full name.)

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

14 C/O Richards, A. Smith (Lt.), D.

15 (Enter the full name(s) of the defendant(s) in this action.)

16 vs.

17 Bell (CDW), J. Lacy (Cpt.), T. Lem

18 (AW), J. Robertson (Warden),

19 Maready (Cook)

20 Case No. 1:22-cv-1800-RMI

21 (Provided by the clerk upon filing)

22 COMPLAINT UNDER THE
23 CIVIL RIGHTS ACT,
24 42 U.S.C. § 1983

25 **I. Exhaustion of Administrative Remedies.**

26 Note: You must exhaust available administrative remedies before your claim can go
27 forward. The court will dismiss any unexhausted claims.

28 A. Place of present confinement Pelican Bay State Prison

B. Is there a grievance procedure in this institution? YES NO

C. If so, did you present the facts in your complaint for review through the grievance
procedure? YES NO

D. If your answer is YES, list the appeal number and the date and result of the appeal at each
level of review. If you did not pursue any available level of appeal, explain why.

E. Informal appeal: PBSP-A-20-00798 on April 4, 2020 I filed
a CDCR Inmate/Parolee 602 Appeal

1 2. First formal level: Denied at the first level review.

2 _____

3 _____

4 3. Second formal level: Denied at the second level review.

5 _____

6 _____

7 4. Third formal level: Third level response based its decision
8 upon review of the 2nd level response previously issued.

9 _____

10 E. Is the last level to which you appealed the highest level of appeal available to you?

11 YES NO

12 F. If you did not present your claim for review through the grievance procedure, explain why.

13 N/A

14 _____

15 _____

16 II. Parties.

17 A. Write your name and present address. Do the same for additional plaintiffs, if any.

18 Inmate Chaparro, #T-24548 is Plaintiff's witness that he could
19 not write.

20 _____

21 B. For each defendant, provide full name, official position and place of employment.

22 Correctional Officer Richards, supervising official, A. Smith
23 (Lt.), D. Bell (CDW), J. Lacy (Cpt.), T. Lemo (AW), J. Robert-
24 son (Warden), Mazeady (Cook).

25 _____

26 _____

27 _____

28 _____

1 **III. Statement of Claim.**

2 State briefly the facts of your case. Be sure to describe how each defendant is involved
 and to include dates, when possible. Do not give any legal arguments or cite any cases or
 statutes. If you have more than one claim, each claim should be set forth in a separate
 numbered paragraph.

4 Prison officials have a duty to provide safe working conditions for prison-
 ers, and to take the necessary measures to prevent accidents from happening.
When supervising officials report to their assigned position they are to in-
 spect the equipment that inmates will be working with and also the surrounding
 6 ing area for any foreseeable risks.
 The inmates restroom in A@ dining is not equiped with a doohandle that in-
 7 mates can use to close the door when using the restroom. Instead, there is a
 make-shift handle in place that forces an inmate to swing the door closed.
 8 This is the only restroom that inmates have access to during work hours.
 9 Because of this dangerous working conditiion and having to use this make-
 shift handle; On March 17, 2020, Plaintiff's hand was caught in the closing
 10 door, and as a result his finger was cut off. This injury has severely in-
 terferred with Plaintiff's performance of daily activities, simple tasks
 11 like writing (e.g., Inmate Chaparro, #T-24548 is whom wrote Plaintiff's 502
 Appeal), washing myself, shaving, and laundry has been difficult and the
 12 awkward stares from people and the constant pain and emotional distress,
 emotional pain and suffering, and physical pain and suffering. This matter
 13 was address via CDCR-22 Form addressed to C/O Richards and through a CDCR
 502 Inmate Appeal.

14 On March 17, 2020, Plaintiff was transported to a hospital, CDCR officials
 should cover that bill.

15 **IV. Relief.**

17 Your complaint must include a request for specific relief. State briefly exactly what you
 want the court to do for you. Do not make legal arguments and do not cite any cases or
 statutes.

18 Injective declaratory relief; emotional pain and suffering for the amount
 19 of \$500,000 in damages;

20 Injective declaratory relief to order Defendants to place a proper handle
 in all inmate restrooms in all of the dining halls; Attorney's fees; and for

22 CDCR-PBSP to cover the ambulance bills.

24 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

25 Executed on:

3/15/2020

Date

R. Lee

Signature of Plaintiff

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE QUEROL, AT7315
Current Housing: A 003 2202001L

Date: May 28, 2020

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: PBSP-A-20-00798

ASSIGNED STAFF REVIEWER: AW CS
APPEAL ISSUE: LIVING CONDITIONS
DUE DATE: 07/02/2020

Inmate QUEROL, this acts as a notice to you that your appeal has been sent to the above staff for SECOND level response. If you have any questions, contact the above staff member. If dissatisfied, you have 30 days from the receipt of the response to forward your appeal for THIRD level review. Third level appeals are to be mailed directly to:

Chief of Inmate Appeals
Department of Corrections
P. O. Box 942883
Sacramento, CA 94283-0001

- K. Royal, Appeals Coordinator
 - S. Williams, IAO OT
 - D. Lunsford, SSA
 - C. Beasley, AC
- Appeals Coordinator
PBSP Appeals Office

INMATE APPEAL ASSIGNMENT NOTICE

To: INMATE QUEROL, AT7315
Current Housing: A 002 1113001L

Date: April 20, 2020

From: INMATE APPEALS OFFICE

Re: APPEAL LOG NUMBER: PBSP-A-20-00798

ASSIGNED STAFF REVIEWER: AW/BS
APPEAL ISSUE: LIVING CONDITIONS
DUE DATE: 05/27/2020

Inmate QUEROL, this acts as a notice to you that your appeal has been sent to the above staff for FIRST level response. If you have any questions, contact the above staff member. If dissatisfied, you have 30 days from the receipt of the response to forward your appeal for SECOND level review.

- K. Royal, Appeals Coordinator
 - S. Williams, IAO OT
 - D. Lunsford, SSA
 - B. Chaucer, SCR LT
- Appeals Coordinator
PBSP Appeals Office

PELICAN BAY STATE PRISON

UNIT A-3

DEPARTMENT OF CORRECTIONS AND REHABILITATION

STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR-0602 (REV. 03/12)

Side 1

IAB USE ONLY	Institution/Parole Region:	Log #:	Category:
PBSP A 30 00798			
FOR STAFF USE ONLY			

You may appeal any California Department of Corrections and Rehabilitation (CDCR) decision, action, condition, policy or regulation that has a material adverse effect upon your welfare and for which there is no other prescribed method of departmental review/remedy available. See California Code of Regulations (CCR), Title 15, Section 3084.1. You must send this appeal and any supporting documents to the Appeals Coordinator (AC) within 30 calendar days of the event that led to the filing of this appeal. If additional space is needed, only one CDCR Form 602-A will be accepted. Refer to CCR 3084 for further guidance with the appeal process. No reprisals will be taken for using the appeal process.

Appeal is subject to rejection if one row of text per line is exceeded.

WRITE, PRINT, or TYPE CLEARLY in black or blue ink.

Name (Last, First):	CDC Number:	Unit/Cell Number:	Assignment:
Querol Rommel	AT-7315	A3 230	A2 Dining hall

State briefly the subject of your appeal (Example: damaged TV, job removal, etc.):

Work conditions

A. Explain your issue (If you need more space, use Section A of the CDCR 602-A): Prison officials have a duty to provide safe working conditions for prisoners, and to take the necessary measures to prevent accidents from happening. When supervising officials report to their assigned position they are to inspect

B. Action requested (If you need more space, use Section B of the CDCR 602-A):

That a proper door handle be placed on the inmate restrooms in All the dining halls. APR 14 2020

\$500,000 in damages

Supporting Documents: Refer to CCR 3084.3.

Yes, I have attached supporting documents.

List supporting documents attached (e.g., CDC 1083, Inmate Property Inventory; CDC 128-G, Classification Chrono):

Unanswered CDC12 22 Form to %6 Richards

APR 14 2020

APR 14 2020

No, I have not attached any supporting documents. Reason:

APR 14 2020

Inmate/Parolee Signature: R. Querol Date Submitted: 4/14/20

By placing my initials in this box, I waive my right to receive an interview.

C. First Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached?

 Yes No

This appeal has been:

- Bypassed at the First Level of Review. Go to Section E.
 Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____
 Cancelled (See attached letter) Date: _____
 Accepted at the First Level of Review.

Assigned to: D.L. CS Title: AW Date Assigned: 04/07/20 Date Due: 05/07/20

First Level Responder: Complete a First Level response. Include Interviewer's name, title, interview date, location, and complete the section below.

Date of Interview: April 27, 2020 Interview Location: A2-13

Your appeal issue is: Granted Granted in Part Denied Other: _____

See attached letter. If dissatisfied with First Level response, complete Section D.

Interviewer: D.L. SPARKS (Print Name) Title: LOCKSMITH Signature: D.L. SPARKS Date completed: APR 28, 20

Reviewer: T. EIMOS (Print Name) Title: AW Signature: T. EIMOS

Date received by AC: MAY 07 2020

AC Use Only
Date mailed/delivered to appellant: MAY 07 2020

PELICAN BAY STATE PRISON

UNIT A-3

DEPARTMENT OF CORRECTIONS AND REHABILITATION

STATE OF CALIFORNIA

INMATE/PAROLEE APPEAL FORM ATTACHMENT

CDCR-0602-A (REV. 03/12)

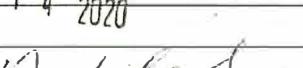
Side 1

IAB USE ONLY Institution/Parole Region: Log #: Category: 9

PBSP A-20-00798

Attach this form to the CDCR 602, only if more space is needed. Only one CDCR 602-A may be used.

Appeal is subject to rejection if one row of text per line is exceeded. **WRITE, PRINT, or TYPE CLEARLY** in black or blue ink.

Name (Last, First): Querol Rommel	CDC Number: AT-7315	Unit/Cell Number: A3-230	Assignment: A2 Dining hall
<p>A. Continuation of CDCR 602, Section A only (Explain your issue): the equipment that inmates will be working with and also the surrounding area for any foreseeable risks.</p> <p>The inmate restroom in A2 dining is not equipped with a door handle that inmates can use to close the door when using the restroom. Instead there is a make-shift handle in place that forces an inmate to swing the door closed. This is the only restroom that inmates have access to during work hours.</p> <p>Because of this dangerous working condition and having to use this make-shift handle; on March 17, 2020 my hand was caught in the closing door, and as a result my finger was cut off. This injury has severely interfered with my performance of daily activities. Simple tasks like writing (inmate Chaparo #T24548 is writing this appeal for me), washing myself, shaving and laundry have proved to be difficult. Not to mention the awkward stares from people, and my daily pain and suffering.</p> <p>I have attempted to address this at the informal level via 22 form to my supervisor % Richards, only to have my 22 form go unanswered. APR 14 2020</p>			
Inmate/Parolee Signature: 		Date Submitted: 4/4/20	<p>Pelican Bay State Prison APR 14 2020 Appeals Office Pelican Bay State Prison MAY 20 2020 Appeals Office D L H A F G</p>

B. Continuation of CDCR 602, Section B only (Action requested): APR 14 2020

Inmate/Parolee Signature: _____ Date Submitted: _____

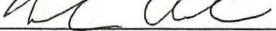
STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL
CDCR-0602 (REV. 03/12)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 2

D. If you are dissatisfied with the First Level response, explain the reason below, attach supporting documents and submit to the Appeals Coordinator for processing within 30 calendar days of receipt of response. If you need more space, use Section D of the CDCR 602-A.

The first level response lacks credible merit. The fact that staff condones a make-shift door handle jeopardizes the very safety and security that they are trying to preserve, there are several outward swinging doors with only one entrance/egress in the kitchen that are equipped with inside door handles (Walk-in refrigerator, staff office, storage room/closet and the staff bathroom). Inmates have access to all of these areas, if they in fact

Inmate/Parolee Signature: 

Date Submitted: 5/19/20

E. Second Level - Staff Use Only

Staff - Check One: Is CDCR 602-A Attached? Yes No

This appeal has been:

- By-passed at Second Level of Review. Go to Section G. *R7*
- Rejected (See attached letter for instruction) Date: 6/21/20 Date: _____ Date: _____ Date: _____
- Cancelled (See attached letter)
- Accepted at the Second Level of Review *AW*

Assigned to: es CS Title: AT Date Assigned: 6/29/20 Date Due: 7/24/20

Second Level Responder: Complete a Second Level response. If an interview at the Second Level is necessary, include interviewer's name and title, interview date and location, and complete the section below.

Date of Interview: FLR 4/27/2020 Interview Location: FLR . cell FrontYour appeal issue is: Granted Granted in Part Denied Other: _____

See attached letter. If dissatisfied with Second Level response, complete Section F below.

Interviewer: A.Smith (Print Name) Title: CT Signature:  Date completed: 6/23/2020Reviewer: Bell (Print Name) Title: EDW Signature: Date received by AC: JUL 10 2020

AC Use Only	<u>JUL 10 2020</u>
Date mailed/delivered to appellant	<u>JUL 10 2020</u>

F. If you are dissatisfied with the Second Level response, explain reason below; attach supporting documents and submit by mail for Third Level Review. It must be received within 30 calendar days of receipt of prior response. Mail to: Chief, Inmate Appeals Branch, Department of Corrections and Rehabilitation, P.O. Box 942883, Sacramento, CA 94283-0001. If you need more space, use Section F of the CDCR 602-A.

Both FLRs and SCRs admission that a make-shift door handle is not proper and is altering the function of the door, is evidence that officials condone and continue to allow unsafe working conditions. Because of these unsafe conditions and staff's negligence I lost a finger, and future injuries are sure to follow if this is not fixed. An immediate and simple solution is available, yet officials do not want to cooperate.

Inmate/Parolee Signature: _____ Date Submitted: _____

G. Third Level - Staff Use Only

This appeal has been:

- Rejected (See attached letter for instruction) Date: _____ Date: _____ Date: _____ Date: _____ Date: _____
- Cancelled (See attached letter) Date: _____
- Accepted at the Third Level of Review. Your appeal issue is: Granted Granted in Part Denied Other: _____

See attached Third Level response.

Third Level Use Only
Date mailed/delivered to appellant <u>1/1/2021</u>

H. Request to Withdraw Appeal: I request that this appeal be withdrawn from further review because: State reason. (If withdrawal is conditional, list conditions.)

Inmate/Parolee Signature: _____ Date: _____

Print Staff Name: _____ Title: _____ Signature: _____ Date: _____

**STATE OF CALIFORNIA
INMATE/PAROLEE APPEAL FORM ATTACHMENT
CDCR-0602-A (REV. 03/12)**

DEPARTMENT OF CORRECTIONS AND REHABILITATION

Side 2

D. Continuation of CDCR 602, Section D only (Dissatisfied with First Level response): wanted to barricade themselves in. this shows that a door handle can and should be placed on the inmate bathroom door to prevent future incidents.

Inmate/Parolee Signature: Heath

Date Submitted: 5/19/20

F. Continuation of CDCR 602, Section F only (Dissatisfied with Second Level response):

Inmate/Parolee Signature:

Date Submitted:



FIRST LEVEL APPEAL RESPONSE



RE: PELICAN BAY STATE PRISON (PBSP)
 Appeal Log Number PBSP-A-20-00798
 First Level Reviewer's Response

INMATE NAME: QUEROL, AT7315

APPEAL DECISION: DENIED

APPEAL ISSUE: WORK CONDITIONS

In section A of the appeal, you allege Prison Officials have a duty to provide safe working conditions for prisoners and to take the necessary measures to prevent accidents from happening. When supervising officials report to their assigned position, they are to inspect the equipment inmates will be working with and also the surrounding area for seeable risk. The inmate restroom in A2 is not equipped with a door handle inmates can use to close the door when they use the restroom; instead, there is a makeshift handle in place which forces an inmate to swing the door closed. This is the only restroom the inmates have to access during work hours.

It is alleged because of the dangerous working condition and having to use the makeshift handle, you on March 17, 2020, caught your hand in the closing door resulting in your finger being cut off. You allege this injury has severely interfered with your performance of daily activities such as writing, shaving, and laundry. In addition, you allege there is awkward stares from people and you suffer daily pain and suffering.

EFFECTIVE COMMUNICATION:

The interview for this appeal was completed on April 27, 2020, at the Fist Level Review. A review of the Disability and Effective Communications System reflects a Test of Adult Basic Education score of 10.9. During the interview you were articulate in describing your understanding of the appeal. D. Spiering, Locksmith, utilized simple English, spoken slowly and clearly. You reiterated in your own words what was explained, provided appropriate responses to questions asked and asked appropriate questions regarding the information provided. Effective Communication was established and was not an issue. The attached Appeals Effective Communication form contains information relative to accommodations that may have been utilized to ensure effective communication.

ACTION REQUESTED:

You are requesting a proper door handle be installed on inmate restrooms in all dining halls. You are also requesting \$500,000 in damages.

FINDINGS:

During the interview you expressed not having a handle is a safety danger to you. You had asked if it is proper to tie a trash bag on the outside to use as a handle. It was explained that tying a trash bag on

First Level Review

Inmate: QUEROL, AT7315

Appeal Log No.: PBSP-A-20-00798

Page 2

the outside handle was not proper and altering the function of the door. It was also explained for the Safety and Security of all staff and inmates in the institution, a door handle would not be installed. This door in all dining rooms is an outward swinging door with only one entrance/egress. When a prison is built, there are no handles placed on the inside of outward swinging doors with only one entrance/egress. This is due to staff and inmate safety. Placing a handle on the inside of an outward swinging door that has one entrance, places staff and inmate lives and safety in jeopardy. A handle placed on the inside of an outward swinging door would allow someone to tie the door closed or place something through the handle barricading the door from the inside closed position and thereby rendering the door inoperative in an emergency situation.

The following section of the California Code of Regulations (CCR) was utilized for this appeal:

- CCR, Title 15, Section 3270

DETERMINATION OF ISSUE:

Your request for a door handle to be installed on inmate restrooms, in all dining halls, is **DENIED**.

Monetary compensation is outside the scope of the First Level Review; therefore, your request for monetary compensation of \$500,000, is **DENIED**.

Based on the above information, your request is **DENIED** at the First Level Review.



J. LACY

5/1/2020

Date

Captain (Adult Institution)
Central Services



T. LEMOS

Associate Warden
Central Services

5-1-2020

Date

State of California
CDC FORM 695
Screening For:
CDC 602 Inmate/Parolee Appeals
CDC 1824 Reasonable Modification or Accommodation Request

RE: Screening at the SECOND Level

Tuesday, June 2, 2020

QUEROL, AT7315
A 003 2202001L

LIVING CONDITIONS, Safety and Sanitation, 05/20/2020

Log Number: PBSP-A-20-00798

(Note: Log numbers are assigned to all appeals for tracking purposes. Your appeal is subject to cancellation for failure to correct noted deficiencies.)

The enclosed documents are being returned to you for the following reasons:

Your appeal has been rejected pursuant to the California Code of Regulations, Title 15, Section (CCR) 3084.6(b)(7). Your appeal is missing necessary supporting documents as established in CCR 3084.3. All documents must be legible (If necessary, you may obtain copy(ies) of requested documents by sending a request with a signed trust withdrawal form to your assigned counselor). Your appeal is missing:

You will need to attach all related documents to include all original documents from the First Level Review.

- K. Royal, Appeals Coordinator
 S. Williams, IAO OT
 D. Lunsford, SSA
 C. Beasley, AC
Appeals Coordinator
PBSP Appeals Office

Pelican Bay State Prison

JUN 05 2020

Appeals Office

NOTE: If you are required to respond/explain to this CDCR Form 695, use only the lines provided below.

I have attached the necessary documents

Be advised that you cannot appeal a rejected appeal, but should take the corrective action necessary and resubmit the appeal within the timeframes specified in CCR 3084.6(a) and CCR 3084.8(b). Pursuant to CCR 3084.6(e), once an appeal has been cancelled, that appeal may not be resubmitted. However, a separate appeal can be filed on the cancellation decision. The original appeal may only be resubmitted if the appeal on the cancellation is granted.

NOTE THIS CDCR 695 IS A PERMANENT APPEAL ATTACHMENT AND IS NOT TO BE REMOVED

CALIFORNIA DEPARTMENT OF CORRECTIONS AND REHABILITATION

APPEALS EFFECTIVE COMMUNICATION CON.

INMATE NAME	CDCR NUMBER	HOUSING	APPEAL LOG#
QUEROI	AT 7315	A2-113	PBSP-A-20-a.

A. DOES THE INMATE HAVE DISABILITIES OR COMMUNICATION ISSUES?

- Reads and comprehends without assistance (asked inmate or confirmed by past records).
- No disabilities or effective communication needs found after review of DECS & TABE/Learning Disability lists.

STOP! IF ITEMS #1 AND #2 ARE BOTH CHECKED, GO TO SECTION B. SIGN AND DATE.3. Identified with a disability or effective communication need (check all that apply):

- | | | |
|--|----------------------------------|---|
| <input type="checkbox"/> TABE 4.0 or lower, or no score | <input type="checkbox"/> Hearing | <input type="checkbox"/> Learning disability |
| <input type="checkbox"/> Requires reading/comprehension assistance | <input type="checkbox"/> Vision | <input type="checkbox"/> Developmental disability |
| <input type="checkbox"/> Foreign language speaking | <input type="checkbox"/> Speech | <input type="checkbox"/> EOP |
| | | <input type="checkbox"/> CCCMS |

B. APPEAL INTERVIEW

1. How was assistance provided? Check all that apply.

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Simple English spoken slowly & clearly | <input type="checkbox"/> Inmate stated no need for EC assistance | <input type="checkbox"/> Large print material used |
| <input type="checkbox"/> Read documents to inmate | <input type="checkbox"/> Used text magnifier | <input type="checkbox"/> Lip reading |
| <input type="checkbox"/> Inmate was wearing hearing aid(s) | <input type="checkbox"/> Sign language interpreter used; Name: | |
| <input type="checkbox"/> Written notes used (notes attached) | <input type="checkbox"/> Language interpreter used; Name: | |
| <input type="checkbox"/> Other: _____ | | |

2. How was effective communication achieved? Check all that apply.

- | | |
|---|--|
| <input checked="" type="checkbox"/> Inmate reiterated in his own words, what was explained. | |
| <input checked="" type="checkbox"/> Inmate provided appropriate, substantive responses to questions asked. | |
| <input checked="" type="checkbox"/> Inmate asked appropriate questions regarding the information provided. | |
| <input type="checkbox"/> Inmate did not appear to understand the communication, even though the primary method of communication was used. | |
| <input type="checkbox"/> Other: _____ | |

D. L. Spierwink, locksmith 1

Signature

4-27-20

Printed Name & Title

Date

STOP! DO NOT FILL OUT SECTION C OR D UNLESS PROVIDING ASSISTANCE WITH COMPLETED RESPONSE AS DIRECTED BY THE APPEALS OFFICE

C. APPEAL RESPONSE - FIRST LEVEL

1. How was assistance provided?

- Effective communication assistance was provided as identified in Section B, #1 of this form.

2. How was effective communication achieved?

- Effective communication assistance was provided as identified in Section B, #2 of this form.

Additional Comments: _____

Printed Name & Title	Signature	Date
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D. APPEAL RESPONSE - SECOND LEVEL

1. How was assistance provided?

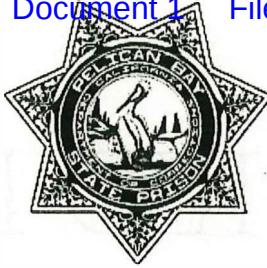
- Effective communication assistance was provided as identified in Section B, #1 of this form.

2. How was effective communication achieved?

- Effective communication assistance was provided as identified in Section B, #2 of this form.

Additional Comments: _____

Printed Name & Title	Signature	Date
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**PELICAN BAY STATE PRISON
SECOND LEVEL REVIEW**

DATE: **JUL 10 2020**

Inmate QUEROL, AT7315
Pelican Bay State Prison
Facility A, Unit 3, Cell 202L

RE: WARDEN'S LEVEL DECISION
APPEAL LOG NO: PBSP-A-20-00798

APPEAL: DENIED
ISSUE: LIVING CONDITIONS

This matter was reviewed by Jim Robertson, Warden, at Pelican Bay State Prison (PBSP). On April 27, 2020, D. Spiering, Locksmith, reviewed the appeal at the First Level Review (FLR). All submitted documentation and supporting arguments have been considered.

ISSUE

The Appellant claims Prison Officials have a duty to provide safe working conditions for inmates and to take the necessary measures to prevent accidents from happening. When supervising officials report to their assigned position, they are to inspect the equipment inmates will be working with and the surrounding area for seeable risk. The inmate restroom in Facility A-2 dining is not equipped with a door handle inmates can use to close the door when they use the restroom; instead, there is a makeshift handle in place which forces an inmate to swing the door closed. This is the only restroom the inmates have to access during work hours.

It is alleged because of the dangerous working condition and having to use the makeshift handle, the Appellant, on March 17, 2020, caught his hand in the closing door resulting in his finger being cut off. The Appellant alleges this injury has severely interfered with his performance of daily activities such as writing, shaving, and laundry. In addition, the Appellant alleges there is awkward stares from people and he suffers daily pain and suffering.

The Appellant requests a proper door handle be installed on inmate restrooms in all dining halls. The Appellant is also requesting \$500,000 in damages.

Second Level Review
Inmate QUEROL, AT7315
Appeal Log No.: PBSP-A-20-00798
Page 2

EFFECTIVE COMMUNICATION

The Appellant has not been identified with a disability or effective communication need. The Appellant has a Reading Grade Point Level of 10.9. The Appellant is not a participant in the Mental Health Services Delivery System. The attached Appeals Effective Communication Confirmation Form contains information relative to accommodations that may have been utilized to ensure effective communication following a review of the Disability Effective Communication System.

FINDINGS

I

On April 27, 2020, the FLR reviewed the appeal and all relevant documentation. During the interview, the Appellant expressed not having a handle is a safety danger to him. The FLR explained tying a trash bag on the outside handle was not proper and altering the function of the door. It was also explained for the safety and security of all staff and inmates in the institution, a door handle would not be installed. This door in all dining rooms is an outward swinging door with only one entrance/egress. When a prison is built, there are no handles placed on the inside of outward swinging doors with only one entrance/egress; this is due to staff and inmate safety. Placing a handle on the inside of an outward swinging door, which has one entrance, places staff and inmate lives and safety in jeopardy. A handle placed on the inside of an outward swinging door would allow someone to tie the door closed or place something through the handle barricading the door from the inside closed position and thereby rendering the door inoperative in an emergency situation.

The FLR acted to deny the appeal at the FLR. The Appellant's request for a door handle to be installed on inmate restrooms, in all dining halls, was denied. The request for monetary compensation was denied.

II

The Appellant was dissatisfied with the FLR, stating it lacks credible merit. The Appellant states the fact staff condones the makeshift plastic bag door handle jeopardizes the safety and security trying to be preserved. The Appellant claims there are several outward swinging doors with inside door handles within the dining facility.

The Second Level Review (SLR) evaluated all submitted supporting documents. The CDCR Construction and Standardization Design was contacted in regards the inmate restroom doors not having a door handle. It was reported the inmate restroom doors were designed without a handle based upon safety and security. The SLR inspected the inmate restroom doors in all PBSP dining facilities. Every door examined was the same with no provisions to secure the door from within. For safety and security purposes there were no door handles placed on the inside of inmate

Second Level Review
Inmate QUEROL, AT7315
Appeal Log No.: PBSP-A-20-00798
Page 3

restrooms. Any use of an item secured to the exterior handle of the door to pull closed from the inside is manipulation of its intended use. Any use of an exterior door handle manipulation device is not condoned and the user assumes the risk.

Monetary compensation is outside the scope of the appeal process.

The following section of the California Code of Regulations (CCR), Title 15, was utilized for this appeal:

- CCR, Title 15, Section 3270, Security

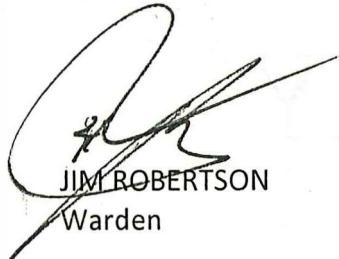
DETERMINATION OF ISSUE

A thorough review of this matter was conducted at the FLR and SLR. The Appellant's request for a door handle to be installed on inmate restrooms, in all dining halls is **DENIED**. The Appellant's request for monetary compensation is outside the scope of the appeal process; therefore, the request for monetary compensation of \$500,000, is **DENIED**.

This appeal is **DENIED** at the SLR.

MODIFICATION ORDER

No modification of this decision or action taken is required.



JIM ROBERTSON
Warden

ATS Date: 6/23/2020

STATE OF CALIFORNIA
INMATE/PAROLEE REQUEST FOR INTERVIEW, ITEM OR SERVICE
 CDCR 22 (10/09)

DEPARTMENT OF CORRECTIONS AND REHABILITATION

SECTION A: INMATE/PAROLEE REQUEST

NAME (Print): (LAST NAME)	(FIRST NAME)	CDC NUMBER:	SIGNATURE:
Orlando	Lopez	AT-7213	<i>[Signature]</i>
HOUSING/BED NUMBER:	ASSIGNMENT:	TOPIC (I.E. MAIL, CONDITION OF CONFINEMENT/PAROLE, ETC.): Call to lawyer	
AB-530	12-David Hall	HOURS FROM <u>4:00</u> TO <u>5:00</u>	

CLEARLY STATE THE SERVICE OR ITEM REQUESTED OR REASON FOR INTERVIEW:

Call to lawyer

METHOD OF DELIVERY (CHECK APPROPRIATE BOX) **NO RECEIPT WILL BE PROVIDED IF REQUEST IS MAILED**

- SENT THROUGH MAIL: ADDRESSED TO: 12-David Hall DATE MAILED: 3/11/2020
 DELIVERED TO STAFF (STAFF TO COMPLETE BOX BELOW AND GIVE GOLDENROD COPY TO INMATE/PAROLEE):

RECEIVED BY: PRINT STAFF NAME: <i>C. Lopez</i>	DATE:	SIGNATURE:	FORWARDED TO ANOTHER STAFF? (CIRCLE ONE) YES NO
IF FORWARDED - TO WHOM:	DATE DELIVERED/MAILED:	METHOD OF DELIVERY: (CIRCLE ONE) IN PERSON BY US MAIL	

SECTION B: STAFF RESPONSE

RESPONDING STAFF NAME:	DATE:	SIGNATURE:	DATE RETURNED:
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SECTION C: REQUEST FOR SUPERVISOR REVIEW*Pelican Bay State Prison*

PROVIDE REASON WHY YOU DISAGREE WITH STAFF RESPONSE AND FORWARD TO RESPONDENT'S SUPERVISOR IN PERSON OR BY US MAIL. KEEP FINAL CANARY COPY.

*APR 14 2020**Appeals Office*

SIGNATURE:	DATE SUBMITTED:
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SECTION D: SUPERVISOR'S REVIEW

RECEIVED BY SUPERVISOR (NAME):	DATE:	SIGNATURE:	DATE RETURNED:
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PROOF OF SERVICE BY MAIL

BY PERSON IN STATE CUSTODY

(Fed. R. Civ. P. 5; 28 U.S.C. § 1746)

I, Querol Rommel, declare:

I am over 18 years of age and a party to this action. I am a resident of California,

Pelican Bay State Prison Prison,

in the county of Del Norte, Crescent City,

State of California. My prison address is: B-Yard/5-Blk/111-Cell, P.O. Box 7500,

Crescent City, California 95532.

On MARCH 15, 2022,
(DATE)

I served the attached: Complaint under the Civil Rights Act, 42 U.S.C. §1983

(DESCRIBE DOCUMENT)

on the parties herein by placing true and correct copies thereof, enclosed in a sealed envelope, with postage thereon fully paid, in the United States Mail in a deposit box so provided at the above-named correctional institution in which I am presently confined. The envelope was addressed as follows:

U.S. District Court
Northern District of California
U.S. Courthouse
450 Golden Gate Ave.
San Francisco, CA 94102-3483

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 3/15/2022
(DATE)

RJDR
(DECLARANT'S SIGNATURE)